

STORAGE NAME: h1985.ccc.doc
DATE: February 22, 2002

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: HB 1985 (PCB-CCC-02-02)
RELATING TO: Trust Funds
SPONSOR(S): Council for Competitive Commerce
TIED BILL(S): HB 577

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COUNCIL FOR COMPETITIVE COMMERCE YEAS 10 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The functions of the Executive Cabinet offices of the Comptroller and the Treasurer will be consolidated into the office of the Chief Financial Officer on January 7, 2003, due to an amendment to the Constitution of the State of Florida adopted in 1998. This bill creates the Administrative Trust Fund from which administrative expenses for the office of the Chief Financial Officer will be paid.

Creation of this trust fund requires a three-fifths vote of members of the Florida House of Representatives and the Florida Senate, in accordance with Article III, section 19 of the Florida Constitution. The Administrative Trust Fund will be regulated under Florida Statutes.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Executive Cabinet offices of the Comptroller and the Treasurer will be consolidated into the office of the Chief Financial Officer by January 7, 2003, due to an amendment to the Constitution of the State of Florida adopted in 1998. Currently there is not a funding account from which administrative expenses for the office of the Chief Financial Officer can be paid.

The Florida Constitution provides that a new trust fund may only be created when it passes each house of the legislature by a three-fifths vote,¹ and requires trust funds to terminate not more than four years from the date the trust fund was created.² Florida Statutes provide review procedures by which the Governor or the Chief Justice of the Supreme Court, and the agency responsible for the administration of the trust fund, may recommend to the President of the Senate and the Speaker of the House of Representatives that the trust fund be re-created or terminated.³

Chapter 216 of the Florida Statutes addresses requirements and procedures for planning and budgeting the fiscal affairs of the state, including the financing and spending guidelines for public trust funds. The legislature has the authority to appropriate an amount of money to be paid from a trust fund to an agency or other government entity,⁴ however, in the event that appropriation is inadequate, section 216.181 provides procedures for amending the operating budget of an agency. If an agency receives more money from a trust fund than it spends in a fiscal year, chapter 216 of the Florida Statutes contains provisions to revert the monies into the trust fund from which the money was appropriated, and provides procedures by which the remaining money may be deposited into general revenue.

C. EFFECT OF PROPOSED CHANGES:

As a result of the dissolution of the Cabinet Offices of the Comptroller and the Treasurer, a portion of the monies in the Department of Banking and Finance Administrative Trust Fund and the Treasurer's Administrative Trust Fund are transferred to the new office of Chief Financial Officer, effective January 7, 2003. However, because there is not a current trust fund to hold these monies,

¹ Article III, section 19 (f) (1).

² Article III, section 19 (f) (2). [The Constitution provides for certain exceptions to the four-year termination requirement. *See* Article III, section 19 (f) (3)].

³ Section 215.3206 (1), F. S.

⁴ Article III, section 1.

a new trust fund must be created. This bill creates the Administrative Trust Fund under the office of the Chief Financial Officer to hold these monies for appropriation by the Legislature. The purpose of this trust fund is to support the administrative functions of the office of Chief Financial Officer, and the monies will be apportioned through either a legislative appropriation or an approved amendment to the agency's operating budget.⁵

The bill further provides that any balance of monies in the trust fund at the end of the fiscal year will remain in the trust fund, and these funds will be made available for carrying out the administrative functions of the office of the Chief Financial Officer.⁶

The Administrative Trust Fund terminates on January 7, 2007, pursuant to Article III, section 19 (f)(2) of the State Constitution. However, prior to the regular 2006 Legislative Session, the Governor will make a recommendation to the President of the Senate and the Speaker of the House of Representatives regarding the possible re-creation of the trust fund.⁷ The recommendation by the Governor will be based on the purpose, use, and necessity of the trust fund.

The bill becomes effective upon the adoption of CS/HB 577 or similar legislation creating the Office of Chief Financial Officer.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Council.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁵ This would be subject to the provisions in chapter 216, F.S., which addresses requirements and procedures for planning and budgeting for fiscal affairs of the state. Section 216.181, F.S., provides that an amendment for the operating budget may be requested for operational and capital outlay expenditures, and also provides procedures by which this amendment may be approved.

⁶ The specific reference in the bill to section 216.351, F.S., allows for the provisions of this bill regarding retaining funds in the CFO administrative trust fund to supercede Chapter 216, F.S. However, the monies remaining in the trust fund will remain subject to the requirements of s. 216.301, F.S., which allows the Governor to revert excess monies to general revenue.

⁷ Section 215.3206 (1), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

A portion of the monies currently in the Banking and Finance Administrative Trust Fund and the Treasurer's Administrative Fund will be transferred to the newly created Administrative Trust Fund under the office of the Chief Financial Officer.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Council Director:

Katherine Scott

Matthew Carter